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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/018,672

04/18/2002

Joelle Thonnard

GSKB-120US

1681

26130 7590 07/08/2008
RATNER & PRESTIA- SB DIVISION
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EXAMINER

BASKAR, PADMAVATHI

ART UNIT

PAPER NUMBER

1645

MAIL DATE

DELIVERY MODE

07/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/018,672

Applicant(s)

THONNARD, JOELLE

Examiner

PADMA v. BASKAR

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/31/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-63 and 69-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55, 58-63, 68, 70 and 72-74 is/are rejected.
- 7) ☒ Claim(s) 56, 57, 69 and 71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's response and the amendment filed on 03/31/08 has been entered.

Status of Claims

2. Claims 64-67 are cancelled
Claims 55, 58, 60-63, and 68 have been amended.
New claims 69-74 have been added.
Claims 55-63 and 69-74 are pending and are under examination.

Claim Rejections - 35 USC 102 withdrawn

3. In view of amendment to the claims 55, 58, 70 and 72 the rejections under 35 U.S.C. 102(e) as being anticipated by Breton U.S. Patent 6605709 and 35 U.S.C. 102(b) Murphy et al 1993 Gene 129, 107-111, 1993 Or Fleischmann et al Science 269, 496-512, 1995 are withdrawn.

Claim Rejections - 35 USC 112 maintained

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. The written description and scope of enablement rejection of claims 55, 58-63, 68, 70 and 72-74 under 35 U.S.C. 112, first paragraph are maintained for the same reasons as set forth in the previous office action.

Applicant 3/13/08 states that the amendment to the claims obviate the rejection.

Applicants' arguments have been fully considered but they are not deemed to be persuasive because the specification fails to provide correlation between structure and function for immunogenic fragments of at least 57 amino acids of SEQ ID NO:2.

Art Unit: 1645

The specification fails to disclose an antibody produced against the claimed fragment of 57 contiguous amino acids of SEQ ID NO:2 binds to which fragment within 270 amino acid sequence of SEQ.ID.NO:2 .

New Claim Rejections based on the amendment

Claim Rejections - 35 USC 112, first paragraph

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 55, 58-63, 68, 70 and 72-74 are rejected under 35 USC 112, first paragraph , as the specification does not contain a written description of the claimed invention (This is a new matter rejection).

The limitation "57 contiguous amino acids" claimed in claims 55, 58-63, 68, 70 and 72-74 has no clear support in the specification and the claims as originally filed.

Applicant did not point to support for the immunogenic fragment. A review of the specification discloses no support for immunogenic fragment sequence of at least 57 contiguous amino acids. The subject matter claimed broadens the scope of the invention as originally disclosed in the specification.

Remarks

8. Claims 55, 58-63, 68, 70 and 72-74 are rejected.

Claims 56, 57, 69 and 71 are objected as they depend from rejected base claim.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 1645

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

10. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week. If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Shanon Foley can be reached on (571) 272-0898. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

/Padma Baskar/

/Shanon A. Foley/

Supervisory Patent Examiner, Art Unit 1645